

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Robert Demon Taylor,)	
)	4:07-cr-01285-RBH-1
Petitioner,)	
)	
vs.)	ORDER
)	
United States of America,)	
)	
Respondent.)	
)	
_____)	

This matter comes before the Court upon *pro se* Petitioner Robert Demon Taylor Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 (“§ 2255 Motion”), filed on May 9, 2012 [Doc. # 90.] In his § 2255 Motion, the petitioner attempts to challenge his sentence on various grounds.

Petitioner previously filed a 28 U.S.C. § 2255 motion on July 6, 2010, in which he alleged that the Court ran portions of his sentence consecutively, as opposed to concurrently, and that certain drug and gun charges were not supported by probable cause. [See Doc. # 65, at 5–9.] By Order dated September 20, 2010, this Court granted Respondent’s motion to dismiss and found that the July 6, 2010, § 2255 motion was untimely.

Petitioner’s instant § 2255 Motion amounts a challenge to his underlying conviction and sentence. Because Petitioner has previously filed a § 2255 Petition which was adjudicated on the merits, the present petition is successive. “[A] prisoner seeking to file a successive application in the district court must first obtain authorization from the appropriate court of appeals.” *United States v. Winestock*, 340 F.3d 200, 205 (4th Cir. 2003) (citing 28 U.S.C. § 2244(b)(3)); *see also* 28 U.S.C. § 2255 (“A

second or successive motion [under this section] must be certified as provided in § 2244 by a panel of the appropriate court of appeals[.]”). In the absence of pre-filing authorization, the Court lacks jurisdiction to consider a motion under § 2255. *See Winestock*, 340 F.3d at 205. The docket does not reflect any such authorization.

Because Petitioner’s motion is successive, this Court lacks jurisdiction to consider the § 2255 Motion.

IT IS THEREFORE ORDERED that the § 2255 Motion [Doc. # 90] is **DENIED** *without prejudice* to allow Petitioner to seek written permission from the Fourth Circuit Court of Appeals to file a second or successive motion pursuant to 28 U.S.C. § 2255.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
July 25, 2012